

HUMAN SERVICES BOARD

In re) Fair Hearing No. 20,886
)
Appeal of)

The petitioners, husband (J.H.) and wife (S.P.), appeal the decisions by the Department for Children and Families, Economic Services Division terminating (1) their Food Stamps based on their failure to verify shelter expenses and (2) S.P.'s coverage under the Vermont Health Access Program (VHAP) for failure to pay the program premium.

1. On April 19, 2007 the Department sent the petitioners a notice that VHAP benefits for S.P. would end on April 30, 2007 "because we did not receive your premium as required".

2. The notice was addressed to J.H. as the head of household. The S.P. (the only one who appeared at the hearing¹) stated that she did not receive the notice. She admitted, however, that she had paid a VHAP premium in March 2007 in order to receive VHAP in April. S.P. does not allege

¹The hearing was held by phone on July 25, 2007.

that she misunderstood that she would have to pay a premium of \$80 by the 15th of each month to maintain eligibility for VHAP.

3. At that time, the couple's underlying eligibility for Food Stamps and VHAP was undergoing periodic review. On April 20, 2007 the petitioners submitted a review application.

4. On April 27, 2007 the Department sent the petitioners a "verification review" letter. The letter informed them that the review application they had submitted for Food Stamps did not indicate whether S.P. also wanted to continue to receive VHAP. It also informed them that they would have to submit verification of their claimed \$900-a-month rent in order to qualify for Food Stamps. The notice informed them that unless they provided the requested verification by May 9, 2007, their eligibility for both programs would end on May 31, 2007. The notice included the following provision:

It is up to you to get the information I asked for. If you have a problem getting anything, please let me know right away so I can help. The deadline may be extended if you have good reason for not getting the proof.

5. VHAP was closed for S.P. effective May 1, 2007. The Department did not receive a premium payment or any other response from the petitioners by May 9.

6. On May 10, 2007 the Department sent the petitioners a notice terminating their Food Stamps as of May 31, 2007 because their income, without the verified rent expense as a deduction, was in excess of the program maximum.

7. S.P. claims that she found out about her VHAP termination only after being refused medical service by her provider on May 10, 2007. It appears the petitioners notified the Department's district office on May 14, 2007 that they wished to appeal both the VHAP and Food Stamp closures.²

8. S.P. admits that she did not pay any VHAP premium until July 2007. The Department informed the Board that she was found eligible for VHAP on July 27, 2007. It is not clear whether she incurred any out-of-pocket medical expense between May 1 and July 27, 2007 that would have been covered under VHAP.

²Although fortunately not resulting in any delay in the Board's consideration of this matter, the record shows that the petitioner's May 14, 2007 request for fair hearing was inexplicably (and unacceptably!) not forwarded to the Board by the district office until May 30, 2006. Fair Hearing Rule No. 1.

9. At the hearing, S.P. stated that they were too "embarrassed" to ask their landlord (apparently, a family relative) to verify their rent because they did not want him to know they had applied for Food Stamps. S.P. insisted that monthly cancelled checks she had shown the Department made out to the alleged landlord in the claimed amount of rent should constitute sufficient "verification" of this expense. There is no indication, however, that the checks were specifically paid as "rent".³

ORDER

The Department's decisions are affirmed.

REASONS

In response to a legislative directive (Act 66 of 2003) to enact cost-savings measures designed to sustain the public health care assistance programs, the Department adopted regulations establishing monthly "premiums" to be paid prospectively by VHAP recipients beginning on January 1, 2004. VHAP 4001.91, Bulletin No. 03-17F. Unfortunately, the

³The Department is not demanding that the verification be provided on a Department form. The petitioners would not be obligated to tell their landlord that the information is required for Food Stamp purposes.

regulations require that "coverage shall be terminated if an individual does not pay the required program fee by the billing deadline". W.A.M. § 4001.91. In this case there is no dispute that the petitioners did not pay S.P.'s program fee by the April 30, 2007 deadline and that the Department provided timely notification to them of the closure of her benefits as of that date.

The regulations also provide that individuals terminated from VHAP for non-payment of the premium must pay a new premium and reapply for benefits. W.A.M. § 4001.91. The regulations allow the Department up to thirty days to act on any application for benefits. W.A.M. § 4002.2. Unfortunately, the regulations make no provision for any exceptions or exemptions from the premium payment requirement. As noted above, the petitioners admit they made no premium payments until July, at which time it appears the Department timely reinstated S.P.'s eligibility.

The Department has authority under the Food Stamp regulations to establish reasonable verification requirements for any "factor which affects household eligibility or allotment level". Food Stamp Manual § 273.2(f)(3). The regulations also provide that "the household has primary responsibility for providing documentary evidence to support

statements on the application and to resolve any questionable information". Id. § 273.2(f)(5). Although the same regulations require the Department to provide reasonable assistance to households in obtaining verification, this is not at issue in this case. Here the petitioners seek to be *exempted* from the verification requirements altogether because allegedly they are too embarrassed to let their landlord know they are receiving public assistance. While perhaps understandable, it cannot be concluded that the regulations contemplate or allow waiver of the verification requirements on this basis.⁴

The petitioners' argument that cancelled checks made out to their alleged landlord in the amount they claim is their rent constitute adequate verification is unavailing. As noted above, the Department has no way of knowing whether these payments are, indeed, for rent, or whether they are for some other recurring obligation, the payment of which may not be an allowable deduction for Food Stamps. Such "questionable information" is precisely what the verification requirements in the above regulations are intended to address.

⁴ See footnote 3, *supra*.

Inasmuch as the Department's decisions in this matter are determined to be in accord with the pertinent regulations, the Board is bound to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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